

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,

Plaintiff,

VS.

WILLIAM HARRISON,

Defendant.

CASE NO. 8:05CR13

TENTATIVE FINDINGS

The Court has received the Presentence Investigation Report (“PSR”) and the government’s objections thereto (Filing No. 27). Though not filed, the Defendant initially objected to the PSR, as reflected in the Addendum to the PSR. See “Order on Sentencing Schedule,” ¶ 6. The Court advises the parties that these Tentative Findings are issued with the understanding that, pursuant to *United States v. Booker*, 2005 WL 50108 (U.S. Jan. 12, 2005), the sentencing guidelines are advisory.

The plea agreement reached pursuant to Federal Rule of Criminal Procedure 11(c)(1)(C) requires a specific sentence of 48 months. The government's motion states that, in reaching this agreement, the parties took into account the amount crack cocaine that may actually be proved as attributable to the Defendant. The PSR assumes a quantity of crack cocaine resulting in a base offense level of 26, a total offense level of 23. Together with placement in criminal history category VI, the sentencing guideline range is 92-115 months. The Court's tentative findings are that, absent unusual circumstances, the Rule 11(c)(1)(C) plea agreement should be upheld.

IT IS ORDERED:

1. The government's objections (Filing No.) to the PSR are granted insofar as, absent unusual circumstances, the Court intends to honor the Rule 11(c)(1)(C) plea agreement;

2. The parties are notified that my tentative findings are that the PSR is correct, unless at or before sentencing the parties specifically provide an alternate drug quantity that should be reflected in ¶ 21 and I accept that amount;

3. If **any** party wishes to challenge these tentative findings, the party shall file, as soon as possible but in any event before sentencing, and serve upon opposing counsel and the court a motion challenging these tentative findings, supported by (a) such evidentiary materials as are required (giving due regard to the requirements of the local rules of practice respecting the submission of evidentiary materials), (b) a brief as to the law, and (c) if an evidentiary hearing is requested, a statement describing why an evidentiary hearing is necessary and an estimated length of time for the hearing;

4. Absent submission of the information required by paragraph 3 of this order, my tentative findings may become final;

5. Unless otherwise ordered, any motion challenging these tentative findings shall be resolved at sentencing.

DATED this 16th day of May, 2005.

BY THE COURT:

s/ Laurie Smith Camp
United States District Judge